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ABSTRACT

The Supreme Court's 1973 decision striking down restrictive abortion laws in Texas and Georgia has significantly shaped the rhetoric of the Right to Life movement in both tone and substance. This paper explores how the Court's decision has influenced the movement's definition and development of issues. In addition, it examines the verbal and visual strategies, based entirely on moral principles, that give the Right to Life rhetoric its strong religious fervor and emotional appeal. (Author/HAI)

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THE RHETORIC OF RIGHT TO LIFE: BEYOND THE COURT'S DECISION

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"Laws regulating sexual behavior have no peers when it comes to stirring up intense emotional reactions; when the element of life itself combines with human sexuality, as it does only in the context of abortion, the intensity of emotional disagreement and conflict is compounded."[1] In this statement James George, professor of law at Wayne State University, suggests clearly the strong feelings which emerge in discussions of the abortion question. Although the controversy subsides from time to time, it re-emerges periodically as it did when the Carter campaign was haunted by anti-abortion forces urging him to a stronger stand, to renew debate and rekindle feelings. The persistence of the controversy and the emotional heat it generates probably reflect both the complex nature of the question and the perhaps irreconcilable disagreement over whose rights--the mother's, the child's, or society's--shall have precedence.[2] Despite the disappointment and legal setback of the 1973 Supreme Court decisions striking down restrictive abortion laws in Texas (Roe v. Wade) and Georgia (Doe v. Bolton), the anti-abortion forces have continued and even stepped up their struggle against permissive abortion regulations. In fact, the best known and best organized of these groups, the Right to Life Committee (known by various names in different locations), has grown from ten chapters in 1970 to over 1,000 in 1975, according to its own figures.[3] The goal of the movement is twofold: public education and political lobbying to achieve a "Human Life Amendment."[4]

The rhetoric which the group uses to accomplish its goals has been profoundly influenced by the Supreme Court decision which circumscribed in some ways the issues open to the group. For example, Justice Blackmun's majority opinion in Roe v. Wade outlined the historical background of the

legal rights of the unborn fetus and concluded that "the word 'person,' as used in the 14th Amendment, does not include the unborn."[5] Thus, the anti-abortion arguments which focused on the fetus's right to life under the 14th Amendment were obviated and the movement was compelled to shift at least part of its rhetorical focus and to develop new issues (or new approaches to old issues). Since the finality and authority of the Supreme Court decision mandates such adaptations, how the group reshapes its arguments both to express its view more forcefully and to operate within the constraints is of great interest to the student of rhetoric.

The goal of the present study is to examine the rhetoric of the Right to Life Movement to determine how it reflects and adapts to the judicial restraints. In particular, the study will explore how the movement defines and develops its issues in the light of the Supreme Court decision in Roe v. Wade and the rhetorical strategies it uses to highlight those issues. Within this province the study will, however, observe two limitations. First, it will focus on the verbal and visual facet of the movement's rhetoric without attempting to assay the "body rhetoric" which some anti-abortion proponents have employed. Second, the study will concentrate on the popular literature of the movement, specifically that readily available from local offices. Although various spokesman have developed complex and articulate defenses of the right to life philosophy, these will be used only to reinforce the issues and points presented in the popular literature which should reflect the mass appeals of the movement.[6]

The Court's Decision

Although the Right to Life movement was active in trying to stem the tide of states liberalizing abortion laws in light of the proposed Model Penal Code before the Court decision of 1973, the Court's Roe v. Wade ruling has become the focal point of the movement's efforts.[7] To understand its impact one must first review the decision itself.[8] In brief the Court determined that the right to privacy guaranteed by the 14th Amendment is broad enough to cover a woman's decision to terminate her pregnancy and that the right was so "fundamental" that it could be regulated only on the basis of compelling interests of the state. Further, the Court noted that the state has two compelling interests in the matter, the protection of maternal health and the protection of the "potential" life of the fetus, but that neither is dominant throughout the pregnancy and that each matures as the fetus develops. On these bases the Court decided that during the first trimester neither interest is compelling enough to warrant state inteference and, thus, no constraints on abortions with medical supervision are justified. In the second trimester, since the medical procedure entails some risks for the mother, the state can regulate abortions to protect the mother's health. Finally, in the third trimester, the fetus being viable and its "potential" life now being the paramount concern, the state can regulate abortions to protect its life.[9]

Two points which underlay the Court's decision have had particular importance for the arguments of the opposition. First, the Court refused to address the question of when life begins and suggested that the fetus prior to the last trimester had only "potential" life. "We need not resolve the difficult question of when life begins. When those trained

in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer. It should be sufficient to note briefly the wide divergence of thinking on this most sensitive and difficult question."[10] Since the Court chose not to regard the fetus as human throughout the pregnancy, it suggested that the mother's right to privacy outweighed any concerns for the fetus until the end of the sixth month of pregnancy at which point a line could be drawn to indicate that fetal rights were paramount subsequently. In essence, then, the Court defined the humanity and, thus, legal rights of the fetus as beginning at a somewhat arbitrary point in the pregnancy. Second, the Court, reviewing carefully ancient and common law and judicial statutes, concluded: "In short, the unborn have never been recognized in the law as persons in the whole sense."[11] Moreover, the Court emphasized that restrictive abortion laws are "of relatively recent vintage. Those laws. . . are not of ancient or even common law origin. Instead they derive from statutory changes effected, for the most part, in the latter half of the 19th century."[12] Furthermore, since the laws were designed to protect maternal health in light of the medical dangers of abortions at the time, they do not constitute a legal basis for fetal rights.[13] The laws, then, do not embody a long established legal tradition nor do they reflect a legal basis for claims of fetal rights. I contend that taken together these two points are crucial in shaping the arguments advanced by the Right to Life movement and ultimately the decision itself as argued by Justice Blackmun influences the tone of the movement's appeal.

The Right to Life Response

In response to the Court's refusal to address the question of when life begins, The Right to Life movement, emphasizing the centrality of the issue, has insisted on the humanness of the embryo. As Robert Drinnan, a Jesuit Congressman, expressed it, "Every discussion of abortion must, in the final analysis, begin and end with a definition of what one thinks of a human embryo or fetus."[14] The group advances two arguments to develop this issue which differ strikingly in content and flavor. The first made explicitly in detail in the literature, because it relies heavily on genetic theory and since it cites authorities with impressive medical and scientific credentials, has a strongly pragmatic flavor. Briefly the argument maintains that since all genetic information necessary for the full development of the fetus into a unique individual is present from the moment of fertilization, human life begins at that point. If nothing new is added during development, the process is really maturational not evolutionary and it is not possible to draw the line between humanness and non-humanness.[15] To support this argument the movement introduces a variety of high ethos sources: the First International Conference on Abortion, various doctors who outline the incontrovertable signs of life at early stages, Dr. Liley who is identified as "the Father of Fetology," and even a Time-Life series on birth and development.[16] The appeal is basically scientific and logical, with even a smattering of technical language (carefully explained) like "psychosomatic self," "blastocyst," and "electrocardiogram" to add authenticity, although emotional examples sometimes creep in.

The second argument, which develops the same claim that the embryo is human from fertilization, but which is made implicitly without a full-

blown formal presentation, has a very different cast because it suggests indirectly that since the fetus possesses many human characteristics very early in its development, it is clearly human and, thus, its rights must be of concern to us. This argument is developed, in contrast to the first through the use of emotion laden examples and pictures. The rhetoric is both poignant and vivid. The title of one pamphlet, "The Slaughter of the Innocent," reflects this approach.[17] More graphic and more gruesome are the visual materials and accompanying texts. One brochure's full color cover pictures a baby, photographed three weeks later, that was born alive at 21 weeks while below is a photograph of an infant boy "killed by abortion" at the same time. Inside, the same brochure has pictures of the tiny, but completely formed feet of a 10 week embryo held by two enormous appearing adult fingers. Beneath another picture of a three month embryo the text notes that "after this time nothing new will develop or function, only further growth and maturation. Note he is sucking his thumb."[18] The effectiveness of this particular brochure is attested in advertisements for its sale which indicate that it is "The Brochure that reversed opinion in Michigan to a pro-life majority in their referendum."[19] Another recurrent motif in this argument is the listing of the human characteristics which the fetus evinces at various points. "His heart is beating between 18 and 25 days after conception. His brainwaves can be monitored as early as 43 days. He is sensitive to heat, light, noise, and pain and is capable of crying within the womb. The unborn baby's development is rapid—just as ours was when we were developing in our mother's womb."[20] Pictures with clearly discernible parts of human anatomy in aborted fetuses and descriptions of the processes are also

included. The emotional text and graphic pictures have a decided impact.

The language used also underscores the movement's emphasis on the fetus as human. Consistently the embryo is referred to as "the baby" or "he," in contrast to the court's use of scientifically neutral language in its decision (i.e., "fetus," "embryo,").[21] Abortion is "killing the baby" and the movement prefers a "pro-life" rather than an "anti-abortion" label. The name of the movement and even the titles of suggested reading materials carry out this theme: Life in Our Hands, The Death Peddlers, How to Teach the Pro-Life Story, and Let Us be Born.

The emphasis which the movement accords this issue indicates clearly how significant they feel it is to their cause and suggests that the Supreme Court's refusal to consider it may be a vulnerable point in its decision. Clearly, the development of the issue along both of the lines indicated above is a direct response to the Court's language of "potential" human life.[22] Moreover, the issue as presented in Right to Life literature addresses squarely the Court's point that when the fetal interest is "compelling," the state may intervene in abortion. Without detailed consideration of maternal rights which the Court noted as the other paramount concern of the state, the arguments advanced attack the whole notion of drawing a line to separate the important and non-important stages of fetal rights and contend directly that since the fetus is clearly human from conception drawing a line is logically and morally impossible. In essence, they urge that the fetus's right is compelling throughout the pregnancy. By advancing the issue along both scientific and emotional lines, the Right to Life group creates an effective and varied appeal, which insists that the central issue in the controversy is

the point which the Court refused to address. The Court in its ruling abdicated any responsibility for determining when life began. In contrast, the Right to Life movement assumes that responsibility gladly and insists that both reason and emotion dictate that the starting point is conception. Thus, the Right to Life movement creates its central issue around a lacuna in the Court's ruling.

The second central issue of the Right to Life movement develops from a very different context. The Court's determination that there was no legal basis for protecting the rights of the fetus throughout the entire pregnancy undermined arguments which the group advanced on legal precedent as a basis for prohibiting abortion.[23] Even the name of the movement echoes the wording of the Declaration of Independence and suggests their earlier legal claims. For an essentially moralistic movement the removal of a legal foundation for argument is a serious deprivation, for it must either attack existing laws as unjust, which may alienate conservative supporters, or it must appeal to a higher law, which introduces the problem of conflicting religious views and dogma. But the language of Blackmun's opinion pre-empted the legal precedent for the Court, for he noted that although one's values, attitudes and morals influenced one's personal thinking about the question, the Court's job was to "resolve the issue by constitutional measurement free of emotion and predilection."[24] The Right to Life movement, in response to the legal issue which the Court necessarily saw as primary, has emphasized the overriding moral and ethical dimensions which Blackmun mentioned. A fetus has a moral not simply legal right to life. Cardinal Cooke's comment that good "judicial decisions are not necessarily sound moral decisions" summarizes the group's viewpoint.[25]

The movement argues that, while the Court's decision may be legally accurate (which they do not admit fully), traditional values and beliefs support their cause.[26] The emphasis is on a "return to Christian ethics" and Judeo-Christian morals.[27] Extending the notion of traditional values even further, the Willkes list not only the Christian sects but other major religious groups (Islam, Buddhism and Hinduism) which oppose abortion.[28] Moreover, the movement speaks perjoratively of the "new morality' (perhaps more accurately tagged 'immorality'" and "the misused freedom in a permissive society."[29] Citations from theologians and biblical quotations, which of course have high ethical appeal, are prominent in discussion of this issue.[30]

One unnoted recurrent motif in developing this issue is the identification of the Court's Roe vs. Wade ruling with the Dred Scott decision of 1857 and abortion with Nazi practices in World War II.[31] Although not explicitly stated, two bases seem to underlie these potent comparisons. First, from the Right to Life viewpoint, all three situations reflect a disregard for human life. Further, the first two (Hitler and the Dred Scott decision) were temporary, although unsavory interruptions in the Western cultural tradition which shows from the group's perspective a pattern of increasing concern from the protection of human life. The Scott decision shares the additional similarity of being based on a Supreme Court decision with the similar ruling that Blacks were not people which was finally circumvented through a constitutional amendment. Probably, however, the logical validity of the analogies is less important than the emotional force they display. The Dred Scott decision, which with the 1973 ruling has been labelled "two infamous days in the U.S.A.,"

reminds the audience of the continuing civil rights struggle for Blacks and renews latent feelings of guilt and regret.[32] For minority groups it stirs even stronger emotions. The comparison with Nazi genocide, which is supplemented by a picture of aborted babies in a trashcan entitled "Human Garbage" remarkably reminiscent of the concentration camp photos, elicits both indignation and revulsion. Moreover, they remind the audience implicitly that moral right ultimately takes precedence over law and judicial decisions. The turpitude of those who refuse to acknowledge responsibility is also suggested by quoting the war criminal who said he never realized that his actions would bring him before the Nuremburg court. The judge's response that the result was inevitable as soon as the first innocent person was killed re-emphasizes the responsibility that the audience has for murder of innocents through abortion.[33]

Further in the development of this motif, the line-drawing metaphor reemerges through the suggestion that it is impossible to prevent the wholesale destruction of human life once any exception has been made. Thus, they argue, if abortion is tolerated, post-partum infanticide and euthanasia for the aged without their consent will follow.[34] The practices of Nazi Germany are again adduced, this time by tracing the gradual spread of their downgrading of human life once the quality of life became the standard for judging who should live.[35]

But these comparisons do not stimulate only negative feelings of guilt and remorse. The audience is encouraged to remember that these setbacks were only temporary and that good ultimately triumphed due to the efforts of concerned people. Thus, the readers are inspired with hope and a feeling of righteousness which ideally should go hand in hand with their

acceptance of personal responsibility for the situation to encourage them to combat the forces of darkness. The dramatistic element is there of opposing forces engaged in moral conflict. One chapter heading even carries the admonition, "Correct Social Injustice."[36] If the comparisons are logically weak, they are emotionally effective and inspirational.

Thus, in response to the Court's insistence on a legal framework for making its ruling on abortion laws, the Right to Life movement urges that a higher law and a broader tradition provide the backdrop for an essentially moral decision. In this respect the movement embodies the characteristics which Ralph Smith and Russel Windes outline for an innovational movement, for it emphasizes that its goals are not socially divisive but rather the essence of traditional values and morals.[37] In contrast to the issue of the fetus as human which the movement developed from a deliberate omission in the Court's ruling, this issue suggests that the basis for the Court's finding is too narrow and limited and that other considerations supersede and transcend the purely legal basis Blackmun outlined. Moreover, the appeal here is largely emotional rather than logical. The lack of a strong logical appeal probably stems in part from the very vagueness of the concept of a western cultural tradition, which is difficult both to delineate and substantiate. Thus, the rhetoric focuses on religious and moral claims, which have strong emotional elements, but which do not admit of rigid logical proof.

Of course other concerns are evident in the literature of the Right to Life movement--the dangers of abortion, for example. But these two central issues reflect the creativity and skill of the movement in adapting to the rhetorical constraints of the Court's decision. By developing

these issues along both logical and motivational lines the movement has helped to make them salient for the audience.[38] Thus, the movement revitalized the issue of human life and employed all three classical types of proof to support their thesis. Particularly striking, however, is the use of vivid pictures and loaded language in the text to create a feeling of identification between audience and aborted child through the link of their common humanity. Coupled with the strong moral and ethical appeals that the movement suggests stem from a long cultural tradition, the audience's identification with the unborn child forms the groundwork for a crusade to re-establish justice and thwart inhumane actions. The tone of the movement's rhetoric is, thus, both moralistic and humanistic in contrast to the legalistic stance of the Court in its ruling. Failing to accomplish its ends within the judicial system the group moves its struggle to the consciences of the audience. The close connection, which the movement emphasizes, between its principles and humanistic morality gives its appeal the flavor of a religious crusade. Further, by urging the sanctity of all human life, the movement plays on the fears of euthanasia as a tool in genetic engineering and forces the opposition to be "anti-life" in at least some cases, an undesirable role at best. In essence, the thrust of the movement's rhetoric is to paint the controversy in simplistic terms of good versus evil. Although all social movements adopt this stance to some extent, the rhetoric of the Right to Life group differs from that of other groups. Unlike the Women's Liberation movement which opposes the existing social order, the Right to Life movement urges a return to the traditional values of an earlier time.[39] Also, unlike the Civil Rights movement which had a legal as well

as moral basis for its claims, the Right to Life group relies entirely on moral principles to substantiate its demands. The result is a rhetoric with a strong religious fervor and emotional appeal.

In conclusion, then, the arguments and the rhetoric of the Right of Life movement reveal skillful adaptation to the constraints imposed in the Court's decision. Both the issues which the movement emphasizes and the flavor of the rhetoric they employ reflect a response to the substance and the approach embodied in the Court's ruling. Whether the movement is ultimately successful in achieving its goal of a Right to Life Amendment it is too early to know. But its spokesmen have defined and developed issues and employed rhetoric which possess powerful emotional appeal.

FOOTNOTES

[1] B. James George Jr., "The Evolving Law of Abortion," Abortion, Society and the Law ed. David F. Walbert and J. Douglas Butler, (Cleveland: Case Western Reserve University Press, 1973), p. 3. Hereafter, cited as Abortion.

[2] Daniel Callahan, Abortion, Law, Choice and Morality, (New York: Macmillan, 1970), p. 1; George, p. 3.

[3] Dr. and Mrs. J. C. Willke, Handbook on Abortion, (Cincannati: Hiltz and Hayes Publ. Co., 1975), p. 195.

[4] "Life is in Your Hands," Georgia Right to Life Committee.

[5] "Decision of the United States Supreme Court in January 1973 with Respect to the Texas and Georgia Abortion Statutes," in Abortion, p. 344. Hereafter, cited as "Decision."

[6] For excellent discussions of the philosophy of the movement, cf. Baruch Brody, Abortion and the Sanctity of Human Life (Cambridge, Mass.: MIT Press, 1975) and for a full treatment of all major issues, cf. Germain Grisez, Abortion: The Myths, the Realities and the Arguments, (New York: Corpus Books, 1966).

[7] George, p. 23.

[8] An excellent summary of the Court's decision is available in John Hart Ely, "The Wages of Crying Wolf: A Comment of Roe v. Wade," The Yale Law Journal, 82: 5 (April 1973), 920-921. The complete text of the decision with dissenting opinions is in Abortion, pp. 311-359. Also, included in the text of the Doe vs. Bolton case which struck down the Georgia statute, pp. 360-394.

[9] "Decision" pp. 311-350.

[10] "Decision," p. 346; Michael R. Hagan, "Roe v. Wade: The Rhetoric of Fetal Life," CSSJ, 37:3 (Fall 1976), 192-199 provides an interesting consideration of the rhetoric of the decision itself.

[11] "Decision," p. 348.

[12] "Decision," p. 323.

[13] "Decision," p. 339.

[14] "The Inviolability of the Right to be Born," in Abortion, p. 123.

[15] Willke, pp. 8-27. Actually, there is some disagreement in the literature about fertilization versus implantation in the uterus as the starting point for human life, primarily because of the process of twinning which does not occur until shortly after fertilization. However, the time difference is in reality insignificant since the movement opposes any interference with the process at any point. Also, this fuzziness obviates the need for the movement to take a strong stand against the IUD which they do suggest is abortive. Cf. Willke, pp. 183-184.

[16] Willke, pp. 8-27.

[17] David A. Noebel, (Tulsa, Okla.: Christian Crusade Publications, 1973).

[18] "Life of Death," Cincinnati: Hiltz and Hayes Publishing Co.

[19] Willke, p. 206.

[20] "Life is in Your Hands," Georgia Right to Life Committee.

[21] Cf. Hagan, pp. 196-198 for a discussion of the semantic aspects of the Court's ruling. Also, cf. Willke 197-199 for a discussion of the semantics of both sides.

[22] "Decision," p. 313.

[23] Cf. Germain Grisez, pp. 185-266 for a full review of the legal basis.

[24] "Decision," p. 314.

[25] Quoted in Betty Sarvis and Hyman Rodman, The Abortion Controversy, (New York: Columbia University Press, 1974), p. 66.

[26] Arguments about the legal basis for the decision can be found in Ely and in Justice Rehnquist's dissenting opinion in Abortion, pp. 354-359.

[27] Noebel, p. 19.

[28] Handbook on Abortion, pp. 140-147.

[29] "Life is in Your Hands," National Right to Life Committee; Noebel, pp. 7, 39.

[30] Willke, pp. 140-141; Noebel, pp. 13, 15-16, 29-38.

[31] Willke, pp. 6-7; 163; Noebel, p. 7; "Life or Death."

[32] Willke, p. 163.

[33] "Life is in Your Hands," Georgia Right to Life Committee.

[34] Willke, pp. 11-126.

[35] Willke, pp. 113-117; Noebel, pp. 18-19.

[36] Willke, p. 177.

[37] "The Innovational Movement: A Rhetorical Theory, QJS, 61 (1975), 140-153.

[38] Cf. David M. Hunsaker and Craig R. Smith, "The Nature of Issues: A Constructive Approach to Situational Rhetoric," WS, 40:3 (Summer 1976), 144-156 for a discussion of the role of issues in rhetorical analysis.

[39] Cf. Karlyn Kohrs Campbell, "The Rhetoric of Women's Liberation: An Oxymoron," QJS 59:1 (February 1973), pp. 74-86.